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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,869	07/10/2000	Giancarlo Granata	FMCV0113PUS/199-1623	9855

7590

10/23/2002

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EXAMINER

VO, HAI

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/23/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/612,869

Applicant(s)

GRANATA ET AL.

Examiner

Hai Vo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-20 is/are rejected.
- 7) ☒ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. Claims 1-13 have been cancelled in the amendment received on 08/19/2002.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 14 and 15 are rejected under 35 U.S.C. 102(a) as being anticipated by Groendal et al (US 5,935,364). Groendal discloses an upholstered article comprising a rigid substrate 26, a cushion layer 27, a topping layer 20 and an upholstered fabric covering 16 (figure 4, column 4, lines 37-65). Groendal discloses the cushion layer being made of a foamed polyurethane bun or a cut foam; and the topping layer a low density polyurethane foam (column 4, lines 40-45, 64-65). The cushion layer and the topping layer of Groendal are respectively analogous to the impregnable layer and non-impregnable layer of the claimed invention. With regard to claim 15, figure 4 of Groendal reads on the claim limitations. It is the examiner's position that Groendal anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groendal et al (US 5,935,364) in view of Fisher (US 4,850,578). Groendal discloses the cushion layer made of a cut having a density of 2.5 pcf (column 4, line 43). Groendal does not specifically disclose the cushion layer being reticulated. Fisher supplies the missing feature. Fisher teaches the reticulated foam sheets being produced from buns of foam material, from which each individual sheet is cut as a layer (column 3, lines 28-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have motivated by the desire to employ a reticulated foam as the cushion layer because the reticulated foam is known manufactured from the cut foam. Since the cushion layer of Groendal as modified by Fisher is made of the same material as the claimed impregnable layer. The cushion layer further has the foam density meeting the specific range as required by the claims. It is the examiner's position that the pore distribution would be inherently present.

With regard to claim 17, Groendal teaches the topping layer formed from low density polyurethane foam (column 4, line 64-65).

With regard to claim 18, figure 4 of Groendal reads on the claim limitations.

With regard to claims 19 and 20, Groendal discloses the cushion layer of the cut foam having a density of 2.5 pcf meeting the specific range as required by the claims and the topping layer made of the same foam material as the claimed non-impregnable layer. It is the examiner's position that the combination of the

cushion layer and the topping layer would inherently possess the same shore A hardness within the range as set forth in the claims.

***Allowable Subject Matter***

6. Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the prior art discloses or teaches the panel having a rigid substrate, a composite pad comprising a non-impregnable layer and an impregnable layer, a cover skin disposed over and bonded to the substrate and the pad, wherein at least a portion of the rigid substrate is adjacent to the side of the impregnable layer.

***Response to Arguments***

7. Applicant's arguments with respect to claims 14-20 have been considered but are moot in view of the new ground(s) of rejection.
8. The claim objections and the art rejections have been overcome by the present amendment and response.

***Conclusion***


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Tue-Fri, 8:30-6:00 and on alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone

numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV  
October 17, 2002



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700